



Committee Hears Ideas for Curbing Prescription Drug Abuse, Revamping State Institutions

The Children, Families, Health, and Human Services Interim Committee delved into the topic of prescription drug abuse last month, hearing from health care professionals and law enforcement officials about the extent of the problem. Speakers also offered ideas for reducing abuse and diversion of the drugs.

Committee members began their Senate Joint Resolution 20 study of prescription drug abuse with three panel presentations at their Nov. 15 meeting. They also continued their House Joint Resolution 16 study of state institutions by learning more about the range of services available to treat people who have a mental illness, intellectual disability or chemical dependency.

Overview of Prescription Drug Use, Abuse

Informational sessions for the SJR 20 study focused on medical approaches to managing pain and identifying prescription drug abuse, the role of pharmacists and the Montana Prescription Drug Registry in curbing abuse, and the trends that law enforcement officials are seeing as they investigate and prosecute prescription drug cases. During the presentations:

- four doctors and the program director of the Montana Pain Initiative discussed the treatment of pain and the increased use of narcotic painkillers, known as opioids, to manage pain. They said that doctors began prescribing opioids more extensively as medical standards evolved to encourage more aggressive treatment of pain. However, health care providers began seeing an increase in dependency on the drugs, including drug-seeking behavior by patients who had become addicted.
- Marcie Bough, executive director of the Board of Pharmacy, and Montana Pharmacy Association Chairman Chad Smith talked about the benefits of the Montana Prescription Drug Registry and changes that would make it more useful for health care providers. About 20 percent of Montana's health care providers currently use the registry to see the history of narcotic drugs prescribed for their patients. The registry, created in March 2012, contains information on more

In This Issue

Children, Families, Health, & Human Services Committee.....	1
Economic Affairs Committee.....	2
Education & Local Government Committee....	3
Energy & Telecommunications Committee....	3
Environmental Quality Council.....	4
Law & Justice Committee.....	5
Legislative Audit Committee.....	6
Legislative Finance Committee.....	7
Revenue & Transportation Committee.....	7
The Back Page	
The Quest for Legislative Improvement.....	8



Click on the Events Calendar
for up-to-date information
on committee meetings.

than 3.8 million narcotic prescriptions dispensed to about 543,000 patients since that time.

- federal and state law enforcement officials talked about the types of prescription drug abuse cases they've investigated and prosecuted. The federal Drug Enforcement Administration has concentrated primarily on illegal activity by health care providers, while state enforcement efforts have focused on street sales of the drugs.

The speakers proposed several ideas for reducing addiction and abuse. The proposals ranged from improved education on appropriate prescribing practices to the use of consent forms for patients who are using opioids, drug testing of patients to make sure they're not selling or otherwise diverting their medications, requiring a photo identification to pick up an opioid prescription, and improving the prescription drug registry to allow for real-time information and sharing of information across state lines.

The committee will hear more in January about steps other states have taken to reduce prescription drug abuse. Members also will hear about efforts to deal with prescription drug use and abuse in state-run programs, such as the workers' compensation program and the Medicaid program.

Continuum of Care Review

As part of its HJR 16 study of state-operated institutions, the committee heard from representatives of organizations that provide community-based services to individuals with mental illness, intellectual disabilities or chemical dependency. The HJR 16 study is looking specifically at services provided to individuals who have a mental illness and who are at the Montana State Hospital in Warm Springs, the Montana Developmental Center in Boulder, the Montana Chemical Dependency Center in Butte, or the state prisons.

Community providers talked about their programs and also identified changes that would allow the system of community services to accommodate individuals who are now treated at the state facilities. The needs included more crisis intervention services and improved funding for community treatment.

The committee also heard suggestions from the public for changes to the system of institutions and mental health services. They included:

- moving people from the state institutions into smaller regional facilities and using one of the state facilities as a "forensic" facility for individuals who are involved with the criminal justice system;
- using "assisted outpatient treatment" to ensure that mentally ill individuals who have been released from

the Montana State Hospital or the prisons comply with requirements to take psychiatric medications;

- revising state laws related to the sentencing of people who have been found to be guilty but mentally ill at the time they committed a crime;
- allowing dual licensing of chemical dependency and mental health professionals and creating family-based substance abuse treatment opportunities; and
- increasing funding for crisis services for the mentally ill and for individuals who have both an intellectual disability and a mental illness.

Committee members agreed to hear more information in January about assisted outpatient treatment and regional mental health facilities. They may identify additional topics for review, as well.

New Member

Rep. Casey Schreiner, D-Great Falls, joined the committee for the Nov. 15 meeting. House Speaker Mark Blasdel appointed Schreiner on Nov. 12 to replace Rep. Jenifer Gursky on the committee. Gursky, D-Missoula, resigned her legislative seat in October.

Next Meeting

The committee meets next on Jan. 10 in Room 137 of the Capitol in Helena. For more information about the committee's activities and upcoming meeting, visit the committee's website or contact Sue O'Connell, committee staff.

Committee Website: www.leg.mt.gov/cfhhs

Committee Staff: soconnell@mt.gov or 406-444-3597

Work Group to Study State Fund Structure

A group of interested parties will gather in Helena on Dec. 18 to analyze the costs and benefits of changing the organizational and regulatory structure of Montana State Fund, the state's insurer of last resort for the workers' compensation market.

The informal discussions will set the stage for further analysis by the Economic Affairs Interim Committee of how to proceed regarding the restructuring of the State Fund. Restructuring of the agency is one of several workers' compensation-related topics that the committee is considering as part of its House Joint Resolution 25 study.

Sen. Bruce Tutvedt, the committee's presiding officer, asked two committee members — Rep. Tom Berry and Sen. Tom Facey — to coordinate with the interested parties and provide guidance for the next steps for the full committee to consider. The Montana State Fund, the State Auditor's Office

and various State Fund policyholders already have been meeting to discuss restructuring options.

The committee asked for a list of possible actions that would need to accompany changes in Montana State Fund's structure, as well as discussions about how to handle the Old Fund cost to the state treasury. The list and a tentative agenda are available under Committee Topics, HJR 25, at the committee website: www.leg.mt.gov/eaic.

Next Meetings

The work group will meet at 1:30 p.m. on Dec. 18 in Room 137 of the Capitol in Helena. The full committee meets next on Jan. 27-28. For more information about the committee's activities and upcoming meetings, visit the committee's website or contact Pat Murdo, committee staff.

Committee Website: www.leg.mt.gov/eaic
Committee Staff: pmurdo@mt.gov or 406-444-3594

Electronic Records, Education Topics on Tap for ELG

The Education and Local Government Interim Committee will meet Dec. 2 in Helena and will hear a progress report from a work group looking at management of electronic records.

The committee approved creation of a work group to discuss topics related to House Joint Resolution 2, which called for a study of electronic records management by state and local governments.

Other agenda items include:

- an update on the Montana Indian Language Preservation Pilot Program;
- a review of charter school bills considered during the 2013 legislative session;
- a report on the School Transportation Funding and Safety Audit;
- an update from the Board of Public Education; and
- a discussion of how to approach the review of the Shared Policy Goals for Montana's systems of education.

The HJR 2 Electronic Records Management Work Group will meet Dec. 18 to continue work on developing recommendations to present to the committee in April. Participants represent state agencies, divisions of local government, and the public. More information on the work group is available on the committee's website.

Next Meetings

The committee meets next at 9 a.m. on Dec. 2 in Room 137 of the Capitol in Helena. The HJR 2 Work Group will meet on Dec. 18 in Room 102 of the Capitol. For more information on the committee's activities and upcoming meetings, visit the committee's website or contact Pad McCracken, committee staff.

Committee Website: www.leg.mt.gov/elgic
Committee Staff: padmccracken@mt.gov or 406-444-3595

Energy Committee Hears About Planned Purchase of Dams

If NorthWestern Energy acquires hydroelectric facilities from PPL Montana, the utility will own more than 60 percent of its resources — providing more stable rates over the long-term for Montana customers, according to the utility's chief operating officer.

NorthWestern Energy CEO Bob Rowe and Vice President of Supply John Hines discussed the utility's plans to purchase the 11 PPL Montana dams, about 633 megawatts, with the Energy and Telecommunications Interim Committee during a Nov. 8 meeting in Helena.

The utility currently owns a little less than 30 percent of the generating resources it needs to meet the electricity needs of its customers. Officials said that doubling that percentage will bring long-term energy certainty and would lock in rates — after an estimated 5 percent increase in residential bills to complete the purchase. The proposed purchase probably won't be completed until September 2014. Currently, the sale price of the dams is at \$900 million.

The Montana Public Service Commission also discussed the proposed sale with committee members. The sale requires the approval of both the PSC and the Federal Energy Regulatory Commission. PSC Chairman Bill Gallagher outlined the process the PSC will follow in assessing the sale.

Planning and Procurement Review

The ETIC also hosted a forum to discuss the process followed by NorthWestern Energy in planning and procuring electricity supply to meet the needs of its customers. The discussion centered around the competitive solicitation process used by NorthWestern Energy to procure energy resources.

Two years ago, the PSC hired a consultant to assist the agency in a review and discussion of best planning practices in Montana and other states. To date, the PSC has not pursued changes in its administrative rules in response to the consultant's report. However, much discussion continues about the process and whether changes in the rules are needed.

The consultant's review of the planning and procurement process found that in Montana, overall planning and decision-making practices around utility resources works well for stakeholders and doesn't need to be changed. The consultants did make recommendations for improving the process, broken into four general categories: planning content, planning process, procurement process, and tools.

Overall, the consultants noted: "Procurement processes need the same robust stakeholder involvement as planning processes to raise important questions; this is most critical for decisions that involve long-lived resources, for which uncertainty causes a significant rise in the likelihood that things will not go as planned sooner or later in the life of the resource. Providing for this stakeholder involvement is challenging in the competitive solicitation setting."

Two themes emerged in the related recommendations, as briefly discussed below.

- **Competitive Bidding Guidance:** Explicit parameters should be developed outlining the PSC's expectations for statutory requirements that an open, fair and competitive procurement process is used when possible. This also may include tightening the connections between a utility's planning and procurement processes, so planning is more useful for procurement and redundancies are eliminated.
- **"Long-Lived" Procurement Process:** A process is needed so stakeholders, including potential bidders and the PSC, can comment on draft requests for proposals (RFPs) and obtain answers critical to bid preparation. A neutral expert, also known as an independent monitor, could observe and report on the processes of a competitive solicitation. This expert assures stakeholders and regulators that RFP processes support a finding of prudence. The duties of an independent monitor could include:
 - » review of the draft RFP;
 - » oversight of the RFP process;
 - » management of requests for confidential treatment of bid information;
 - » reports to the PSC on the process;
 - » review of the reasonableness of a utility's bid scoring and selection of a short list; and
 - » preparation of a closing report for the PSC and bidders concerning the process, reasonableness of the selection, and review of utility ownership options.

The panel discussion on Nov. 8 provided the committee with a more in-depth look at the issues of resource planning and procurement, specifically the competitive solicitation process used by NorthWestern Energy. Stakeholders also shared their

thoughts on the current process and the suggestions provided by the consultants to the PSC.

Next Meeting

The committee does not meet again until March 21. For more information about the committee's activities, visit the committee's website or contact Sonja Nowakowski, committee staff.

Committee Website: www.leg.mt.gov/etic

Committee Staff: snowakowski@mt.gov or 406-444-3078

Work Groups Delve Further into EQC Studies

The Environmental Quality Council has formed two work groups and is tracking the efforts of a governor-appointed advisory council as it delves further into its primary studies this interim.

Federal Land Management

The EQC's SJR 15 Work Group is meeting every other week by teleconference to identify risks and concerns associated with federal land management in Montana. The work group, appointed by EQC Presiding Officer John Brenden, plans to meet again Dec. 5, Dec. 19, and Jan. 2 to continue discussing those risks and concerns.

The 2013 Legislature passed Senate Joint Resolution 15 to evaluate lands managed by the U.S. Forest Service and the Bureau of Land Management. Sponsored by Sen. Jennifer Fielder, who chairs the work group, SJR 15 requested a study to identify measures that will help ensure that the lands are managed responsibly and prudently for present and future generations.

In addition to Sen. Fielder, other SJR 15 Work Group members are Sen. Bradley Hamlett and Reps. Ed Lieser and Kerry White.

Work group agendas and information about the study are available on the EQC website at www.leg.mt.gov/eqc.

For more information on the SJR 15 study or to submit comment, contact Joe Kolman, research staff, at 406-444-3747 or jkolman@mt.gov.

State Historic Properties

The SJR 4 Work Group is continuing the EQC's study of state-owned heritage properties in Virginia City, Nevada City, and Reeder's Alley in Helena. On Nov. 12, the group discussed the statutory and earned revenue funding sources for Montana Heritage Commission operations, the statutes that govern the commission, and the state's acquisition of structures and property in Reeder's Alley.

Members of the commission, commission staff, and representatives of tourism and historic preservation organizations joined the work group at the table to provide information and comment and to answer questions. Members of the work group are Sens. Jim Keane and Rick Ripley and Reps. Jeff Welborn and Virginia Court. Rep. Ray Shaw also attended the November meeting.

The work group identified a number of statutory funding and governing provisions for which members may wish to recommend changes. Those provisions will be highlighted in the work group's report to the EQC. The work group and meeting participants also discussed potential changes to the administrative rules governing how real property sales must be conducted by the commission and potential funding opportunities provided by the Cultural and Aesthetic Grant Program.

The work group does not plan to convene again before the EQC's January meeting.

For more information on the SJR 4 study or to submit comment, contact Leanne Kurtz, research staff, at 406-444-3593 or lekurtz@mt.gov.

Hunting and Fishing Licenses

The EQC is monitoring the work of a task force appointed by the governor to review potential changes to hunting and fishing licenses and fees. House Bill 609, passed by the 2013 Legislature, called for the EQC to undertake a similar review.

Because both the EQC and the governor-appointed council have been given similar tasks, the EQC has chosen to monitor and incorporate the advisory council's work into its own review of the state's hunting and fishing license system.

The advisory council met Nov. 5 and plans to meet again Dec. 11 in Helena at the Montana Wild Outdoor Education Center. The 13-member advisory council has focused on examining ideas for simplifying the different types of licenses offered by the Department of Fish, Wildlife, and Parks. The group is also looking into the impacts that special earmarked accounts and free and discounted licenses have on the funding available for fish and wildlife management.

So far, possible recommendations include:

- standardizing the free and discounted hunting and fishing licenses offered to youth, seniors and the disabled. This could include altering the cost of the licenses so that they are priced at the same, fixed percentage of the full-priced license fee.
- increasing the age at which seniors are eligible for a discounted license;

- consolidating youth license pricing from three age groups to two;
- incorporating fishing and hunting access fees into a base conservation license, eliminating the need for license buyers to pay for these items separately; and
- evaluating alternatives to what has been approximately a 10-year legislatively approved funding cycle for FWP.

The HB 609 study grew out of concerns about the stability of and long-term funding for FWP and the complexity of its hunting and fishing licensing structure.

For more information on the HB 609 study or to submit comment, contact Hope Stockwell, research staff, at 406-444-9280 or hstockwell@mt.gov.

Next Meeting

The full EQC meets next on Jan. 8-9 in Room 172 of the Capitol in Helena to review the efforts of the work groups and advisory council. For more information on the council's activities and upcoming meeting, visit the council's website or contact Joe Kolman, council staff.

Council Website: www.leg.mt.gov/eqc

Council Staff: jkolman@mt.gov or 406-444-3747

LJIC Set to Meet Dec. 5

The Law and Justice Interim Committee will continue its study of the Board of Pardons and Parole and of family law issues in Montana when it meets Dec. 5 in Helena.

The committee will hear an explanation of Project CALM, which is a Billings-area program run by the Yellowstone County Sheriff's Department and the Billings Community Crisis Center. Project CALM provides case managers to help coordinate services to people who are in the criminal justice system and who experience mental health issues.

As a continuation of the Senate Joint Resolution 3 study of the Board of Pardons and Parole, a series of panelists will speak to the committee about areas of the current parole system that are problematic or could be changed. Speakers will also identify processes that work. Panelists range from attorneys to community service providers and others interested in the criminal justice and parole systems.

In the afternoon, the committee will focus its attention on the SJR 22 study of family law procedures and alternatives. Belgrade City Judge Michele Snowberger will explain the work of a committee dedicated to addressing the needs of self-represented litigants and the challenges those litigants pose to the court system. Later, the LJIC will hear from people who have been involved in family law cases and listen

to their ideas for the committee's work. The SJR 22 work will wrap up for the meeting with a discussion of parenting plan guidelines, a topic about which the committee requested more information at its September meeting.

The agenda also includes time for members of the public to speak on the various topics and again at the end of the meeting. All members of the public who wish to comment should review the committee's public comment guidelines, which are available on the LJIC website.

Next Meeting

The committee meets next at 8 a.m. on Dec. 5 in Room 102 of the Capitol in Helena. For more information about the committee's activities and upcoming meeting, visit the committee's website or contact Rachel Weiss, committee staff.

Committee Website: www.leg.mt.gov/ljic

Committee Staff: rweiss@mt.gov or 406-444-5367

Audit Committee Elects New Leadership, Hears 12 Audit Reports

The Legislative Audit Committee elected new leadership at its Nov. 19 meeting. Rep. Randy Brodehl, R-Kalispell, is the new presiding officer, while Sen. Greg Jergeson, D-Chinook, is vice presiding officer. Sen. Sue Malek, D-Missoula, is secretary.

The committee also reviewed 12 recent audits of state agencies and programs. The audit findings are summarized below.

- Sixteen recommendations were presented in a financial-compliance audit of the Department of Public Health and Human Services (13-14). The recommendations related to improving internal controls, enhancing compliance with federal laws and regulations, and achieving compliance with state statutes. Issues addressed included Temporary Assistance for Needy Families fiscal monitoring, department payments not allowable under federal law or program grant agreements, prevention of inappropriate access to computer systems, overcharge for infant formula rebate, and reallocation of alcohol tax distributions in accordance with state law.
- A financial-compliance audit of the Montana Board of Housing (13-07A) contained one recommendation related to following review procedures over the preparation of the Statement of Cash Flows.
- A financial-compliance audit of the Montana State Fund (12-05B) made no recommendations.
- A performance audit of oil and gas and commercial leasing on state trust lands (13P-03) made seven recommendations to address the need for the Department of Natural Resources and Conservation to proactively identify commercial leases on state trust land and strengthen the identification, issuance and monitoring of commercial leasing activities on state trust land.
- A Department of Labor and Industry financial-compliance audit (13-15) included eight recommendations related to professional and occupational licensing board fees, uninsured employers' fund accounts receivable, elevator licensing program inspections and corrective action plans, elevator inspection fees and related accounts receivable, improper programmer access, demotion pay rules, cash management controls and other state compliance issues.
- A contract financial-compliance audit of the Montana Medical Legal Panel (13C-05) made no recommendations.
- A financial-related audit of the University of Montana (13-12) focused on compliance with federal requirements of the Research and Development and Student Financial Assistance federal assistance programs. It tested compliance with selected state laws, university policies and state accounting procedures. Five recommendations were given related to nonresident tuition waivers, computer system access, federal compliance and internal controls.
- A financial-related audit of the Montana State University (13-13) focused on compliance with federal requirements of the university's federal assistance programs. It also tested compliance with selected state laws, university policies and state accounting policies. Two recommendations relating to nonresident tuition waivers in excess of limits in state law and segregation of university and foundation assets were issued.
- A contract financial-compliance audit of Dawson Community College (12C-06) made three recommendations related to internal controls, tuition receivable and capital assets.
- A financial-compliance audit of the Department of Transportation (13-17) included seven recommendations. Three related to internal controls over information system access, accounting procedures and infrastructure transactions. Four recommendations related to compliance with department and state policies, as well as state law. The report also contained a disclosure issue related to vacant position rotation to minimize the impact of the vacant positions report.
- A performance audit of the Block Management Program, which is administered by the Wildlife Division of the Department of Fish, Wildlife and Parks (13P-04), included seven recommendations. They related to devel-

oping policies and procedures for program operations, addressing program funding shortfalls, coordinating with state and federal land management agencies, not providing compensation for properties in conservation easements, and implementing a compensation method for the Block Management Program that ensures accurate and consistent cooperator payments.

The Legislative Audit Division provides independent and objective evaluations of the stewardship, performance and cost of government policies, programs and operations. The division is responsible for conducting financial, performance and information system audits of state agencies and programs, including the Montana University System. For more information, call the division at 406-444-3122 or visit its website. To search for a specific audit, use the identifier listed above in parentheses.

To report suspected improper acts committed by state agencies, departments or employees, call the division fraud hotline at 800-222-4446 or 406-444-4446 in Helena.

Next Meeting

The committee's next meeting has not been scheduled. For more information about the committee's activities or future meeting date, visit the committee's website or contact Legislative Auditor Tori Hunthausen.

Division Website: www.leg.mt.gov/audit

Division Contact: 406-444-3122

Finance Committee Meets Dec. 9-10

The Legislative Finance Committee will hear an update on the state budget and on revenue trends when it meets Dec. 9-10 in Helena.

On Dec. 9, Legislative Fiscal Analyst Amy Carlson and the fiscal staff will present the 2015 Biennium Budget Status Report with updated general fund revenue trends. The report will provide an update to the general fund balance for the 2015 biennium and discuss emerging budget issues for all funding sources. It will also include an in-depth analysis of general fund revenues for the current two-year budget period.

Also that day, the committee will:

- continue to hear information related to the House Joint Resolution 17 study of state pay plans, including presentations by state agency personnel explaining the use of pay plans for recruitment, retention and compensation; and
- receive reports on Medicaid spending in Fiscal Year 2014 and on the Department of Administration's information technology projects.

The schedule for Dec. 10 includes a staff update on the development of the new statewide budgeting system known as IBARS. The update will include a personal services configuration discussion and options available in IBARS. In addition, Fiscal Analysts Scot Conrady and Kris Wilkinson will provide a detailed report on the Montana State Fund budget, while Roxanne Minnehan, executive director of the Montana Public Employee Retirement Administration, will provide an actuarial report on the Public Employees' Retirement System. Members also will hear updates on school payments to the Teachers' Retirement System and on the committee's local government infrastructure project.

Next Meeting

The committee meets next at 10 a.m. on Dec. 9 in Room 102 of the Capitol in Helena. The meeting will continue at 8 a.m. on Dec. 10. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Legislative Fiscal Analyst Amy Carlson.

Committee Website: www.leg.mt.gov/lfc

Committee Staff: acarlson@mt.gov or 406-444-2986

RTIC to Continue Taxpayer Appeal, Oversize Load Studies

The Revenue and Transportation Interim Committee will meet Dec. 4-5 in Helena to continue work on two studies and hear an update on state revenue trends.

The committee will devote the morning of Dec. 4 to the Senate Joint Resolution 23 study of the taxpayer appeal process. Committee staff and representatives of the State Tax Appeal Board and the Department of Revenue will provide information requested at the committee's October meeting, including an overview of other state taxpayer appeal processes and a comparison of Montana's statutes with the American Bar Association's model statutes for tax tribunals.

Following these presentations, the committee will invite interested parties to discuss the taxpayer appeal process and identify any issues with the current appeal system. Two comments periods are scheduled: one for comments related to non-property appeals and one for comments related to property appeals. Centrally assessed property appeals will be discussed at the committee's February meeting. Time limits may be put in place depending on the number of people wishing to comment and the available time.

The committee will wrap up the SJR 23 study items with a brief overview of the history of the constitutional provisions addressing the taxpayer appeal process.

During the afternoon of Dec. 4, the committee will receive a staff briefing on the movement of oversize loads in selected

other states. A representative of Bay, Ltd., will also provide the committee with the company's experience moving oversize loads within and outside of Montana. The director of the Motor Carrier Services Division for the Department of Transportation will discuss a legal opinion on MDT's authority to create oversize load corridors in the state.

Revenue Estimating and Monitoring

On Dec. 5, the Legislative Fiscal Division will present the committee with a general fund status report with updated revenue trends, as part of its revenue estimating and monitoring duties.

The update will serve as a trial revenue estimate for LFD staff. The estimate will be made in the same format as that used for the revenue estimate presentation prior to a legislative session.

Agency Monitoring

The committee will hear reports from the departments of Revenue and Transportation as part of its agency oversight responsibilities.

The Department of Revenue will discuss operational efficiencies, give a litigation report, and cover emerging issues. In addition, economists will present two reports required to be presented to the committee annually: one on the tax credit for planned gifts made to qualified charitable endowments and the other on the tax credit for blending biodiesel fuel.

Next Meeting

The committee meets next at 9 a.m. on Dec. 4 in Room 137 of the Capitol in Helena. The meeting will continue at 8 a.m. on Dec. 5. For more information about the committee's activities and upcoming meeting, visit the committee's website or contact Megan Moore, committee staff.

Committee Website: www.leg.mt.gov/rtic

Committee Staff: memoore@mt.gov or 406-444-4496

The Back Page The Quest for Legislative Improvement

by Susan Byorth Fox, Executive Director, Legislative Services

The 2013-2014 Legislative Council focused on legislative improvement in its biennial strategic planning session earlier this year. As in any institution or corporation, striving for continual improvement is not a novel concept, but one borne of care, concern and a commitment to providing the best service or product that one can. The Legislative Council's specific areas of concern focus on: the session structure and legislative calendar, including the frequency with which the Legislature meets; staffing for leadership and legislators; budget and legislator support and compensation; orientation and training; and the need for public information and outreach to strengthen trust in the institution.

The current desire to look at the Montana Legislature and ways to strengthen it is spurred in part by the increasing amount of turnover that has occurred since passage of term limits in 1992. However, the concerns cited by the Legislative Council in August are, in fact, a historic and perennial topic of conversation.

Themes related to bicameralism vs. unicameralism, the size of the Legislature and legislative compensation, how often the Legislature should meet, and legislative rules and process-

es are common throughout Montana's history. Many of the problems have been resolved or at least addressed, leading to practices that are now taken for granted. Other ideas remain a continual source of discussion and study, with no apparent resolution. It is often easier to organize against change than to champion it, and the inertia of the status quo persists.

The 1950s: Advent of the Legislative Council

The Montana Legislature has been studied multiple times, as have most state legislatures across the country. The Legislative Council itself was a result of study — both the committee that bears the name and the staff division that it administers. The Legislative Services Division was originally called the Montana Legislative Council.

"The Legislative Council movement . . . began in Kansas in 1933. By 1958, there were legislative councils or council-type agencies in 36 states." (Tidball, 2008) Although the movement began in the 1930s, provisions in the Montana Constitution combined with efforts by special interest groups kept that movement at bay in Montana until 1953. That year, the Legislature passed a law to establish a Legislative Council. However, the Montana Supreme Court held the law to be

unconstitutional in *Mitch v. Holmes*. In 1957, the Legislature passed another attempt at creating a Legislative Council, making changes to address some of the concerns raised in the court case. This law stood the constitutional test.

The new Legislative Council, chaired by Sen. David James, hired as its executive director a young attorney named Eugene Tidball, and the newly formed 12-member, bipartisan committee — the Legislative Council — began to meet frequently to work on what the Montana Legislative Council could become. “Research, budget analysis, legal services (encompassing bill drafting and statutory revision), and post auditing” (*ibid.*) were the potential tasks discussed. All studies by the council in the future were to conclude with recommendations and proposed legislation.

The first Legislative Council studied the Montana State Prison and the lack of a state budgeting system and incomplete budget analysis. It recommended that the governor be the chief budget officer of the state, responsible for apportioning the budget between executive agencies and recommending revenue measures necessary to balance the budget. The council formed a subcommittee to analyze the executive budget, staffed by a legislative fiscal analyst. A month before the 1959 legislative session began, the council hired two temporary lawyers. A pre-session bill drafting service was begun to assist two law clerks temporarily hired by each house. This marked a change from the previous practice in which professional lobbyists or attorneys for special interests drafted bills for legislators. A temporary research assistant also was hired.

The 1959 Legislature appropriated money for the Legislative Council committee and staff for the next biennium, including the interim in between legislative sessions. The council hired a staff of three: Tidball as director, Richard Roeder as research assistant, and Rosemary Acher as secretary. The second interim included a study of state government, which at that time consisted of a complicated structure of eight elected officials and 109 executive agencies, including all kinds of boards, commissions, institutions and advisory bodies. A study on legislative practices recommended reducing the number of standing committees from 36 to 15 or 16, consolidating first and second reading of bills, developing a new system of printing bills, and planning for a pre-session caucus. The third interim resulted in additional Legislative Council subcommittees, adding eight non-council legislators to study five topics (a precursor to the current system of interim committees).

The Legislative Council spent the duration of the decade studying Montana government and making recommendations that were enacted by the Legislature. These acts formed the structure of state government, including the Legislature as it exists today.

The 1960s: Multiple Studies, New Approaches

In 1963 and 1964, the Legislature charged the Legislative Council with a comprehensive study of the rules of the Legislature. The council was to clarify, simplify and coordinate the rules of the House of Representatives and the Senate — without causing any radical change in the procedures of the two houses. The legislative rules subcommittee decided to employ joint rules as often as possible to comply with that directive. Members started with the original House and Senate rules as the basis for discussion, compared any rules on the same subject, deleted unnecessary provisions, and simplified and recast desirable ones. The report (Legislative Council, 1964) stated that the most important changes in the new rules were the elimination of one reading of bills on introduction, the elimination of memorials (resolutions would be used instead), and the adoption of Mason’s Manual of Legislative Procedure as authority in both houses. Many of these rules look similar to the ones currently in use, although amendments and attempts to improve upon them occur every session.

In August 1966, the Legislative Council created the nonpartisan Montana Citizens Committee on the State Legislature. A four-person subcommittee of the council appointed 39 members, including state Sens. David F. James and Jean A. Turnage, Reps. Fred Broeder, Jr., and Thomas Judge, former legislators and governors, attorneys, ranchers, publishers, educators and leaders of many state organizations.

The Montana Citizens Committee on the State Legislature reported to the 40th Legislative Assembly of Montana in January 1967 and recommended:

- a constitutional amendment to provide for annual legislative sessions;
- an increase in compensation for legislators from \$35 to \$50 per legislative day and reimbursement for one round-trip to Helena at 8 cents a mile, as well as compensation of \$25 a day, 8 cents per mile and actual expenses for interim committee work;
- development of adequate facilities, including parking space, and a study to provide for better office space for legislative work, committee meetings, public hearings and luncheon facilities; and
- continued study of the legislative branch with citizen participation.

Committee members also considered, but did not act on, a recommendation for additional staff, including another full-time bill drafter. In their postscript, they mentioned the work of a committee that was meeting concurrently and that came

up with similar recommendations. (Montana Citizens Committee, 1967)

That committee was the Montana-Idaho Assembly on State Legislatures, which convened in Missoula on Dec. 1-4, 1966. Sponsored by the University of Montana and the American Assembly of Columbia University, the assembly involved 69 participants from Montana and Idaho. Although it was not connected to the Montana Citizens Committee mentioned above, some of the group's recommendations were consistent. The assembly recommended:

- continuation of a citizen Legislature;
- removal of the constitutional restriction on length of legislative sessions (60 calendar days), so legislatures would be free to determine the frequency and length of legislative sessions;
- removal of some constitutional restrictions and the use of statutes instead;
- legislative salaries that were sufficient so that most citizens could afford to serve in the legislature;
- adequate staff for legislative councils, the use of interim committees for budget analysis, post-audit, and review of administrative policy, and use of the same staff for standing and interim committees; and
- the use of orientation sessions for newly elected legislators.

In addition, the group noted the inadequacy of facilities, saying: "Legislatures need a sufficient number of committee rooms properly equipped. Legislators require work and consultation facilities in addition to the legislative chambers." (Montana Citizens Committee, 1967)

Landmark civil and voting rights decisions were passed by the courts in the mid-1960s, spurring further changes. The principle of "one-person, one-vote" forced reorganization of legislatures in the form of districting and apportionment. It also led to other discussions of legislative organization and process. The studies and decisions contributed to a culmination of interest in holding a constitutional convention. The 1972 Constitutional Convention subsequently affirmed and codified some of the legislative changes and gave the people of Montana some new choices.

The 1970s: Voters Shape Legislative Structure

The Constitutional Convention put the questions of legislative structure and process to the voters. The electorate chose a bicameral Legislature and adopted a proposal to meet in annual sessions of 60 legislative days, with the Legislature being a continuous body during the biennium (June 2, 1972, election). After the Legislature held just one "annual" ses-

sion, the people of Montana reversed course. By initiative, they approved an amendment to the Montana Constitution to provide for 90-day biennial legislative sessions (Constitutional Initiative No. 1, Nov. 5, 1974.)

Although the 1972 Constitution and the subsequent amendment set the parameters of our current Legislature and reflected the thought of the day, some of these questions had recurred over time. Unicameralism — or a legislature made up of only one chamber — was proposed in 1937, 1949, 1967 and 1969 (Speer, 1971) and was a major point of discussion during the 1972 Constitutional Convention. Convention delegates decided to give the electorate the choice between unicameralism and bicameralism; unicameralism garnered 95,259 votes, while bicameralism received 122,425 votes. (Laws of Montana, 1973)

The length of the session also has been a common topic. The 1889 Montana Constitution specified biennial sessions of 60 calendar days each. Prior to the 1972 Constitutional Convention, the previous 12 sessions of the Montana Legislature had exceeded 60 days and the governor called special sessions after adjournment in 1967, 1969 and 1971 to allow for completion of business. (Speer, 1971) [In the original Montana Constitution, only the governor could call special sessions.] Discussions for the new constitution ranged from placing no limits on the length of the session to having sessions of 60, 80 or 90 legislative days. These discussions were held in concert with those on annual or biennial sessions. The final proposal remained at 60 days in annual sessions, although that was promptly changed as noted above.

Refinement of Structure, Processes

Despite the changes made in the early 1970s, the 1977 Legislature established a Legislative Improvement Interim Committee of eight legislators to make recommendations to the 1979 Legislature on bill limits, time management and ways to expedite the legislative process. Final recommendations included:

- providing deadlines for agency bills and pre-introduction of bills;
- setting caucus and orientation dates and a deadline for committee appointments;
- requesting that the State of the State address be given on the first legislative day;
- allowing joint sponsorship of bills;
- revising bill request and introduction deadlines;
- providing for the consent calendar;

- prohibiting Appropriations Committee members from serving on substantive committees that met at the same time
- providing for committee block scheduling;
- providing rules on adverse committee reports;
- requiring amendments for second reading to be prepared and delivered before the amendment was voted upon;
- providing conference committee report formats and engrossing of adopted amendments; and
- requiring ranking of interim committee study resolutions prior to session adjournment.

The Interim Committee on Legislative Improvement also provided recommendations to the pre-session caucuses in 1980, on bills limits, effective dates, staffing and scheduling.

In 1980, the Interstate Consulting Clearinghouse of the Council of State Governments conducted a study of the organization of Montana's legislative staffing. The organization of the various legislative staff agencies had become diffused among several independent and potentially conflicting staff providers. There were five independent staff units, two clerks, two administrative committees and leaders in each house — all providing staff. This structure led to jurisdictional fights between legislators and staff and contributed to confusion and duplication of services. The study recommended creation of an overall management mechanism and said the Legislative Council could fulfill that role. It also recommended that legislative leaders serve on the council, including the speaker of the House, the president of the Senate, and the presiding officers of the Finance and Claims, Taxation and State Administration committees.

In 1987, the Legislature created the Legislative Reorganization and Improvement Commission, made up of 12 legislative and public members. The commission made recommendations on bill limits and deadlines, appropriations subcommittees and revenue estimates, procedural changes for committee bills and adverse committee reports, and appeal of fiscal notes. It also recommended that a four-member leadership committee oversee a more uniform administration of the legislative agencies and committees.

An Ongoing Discussion

Recently, other entities have also studied the Legislature. The Burton K. Wheeler Center commissioned a study on Legislature Reform and Representative Government in Montana (Calvert, 1993). The agenda for reform included returning to annual legislative sessions, reducing the size of the Legislature, increasing public access and legislative visibility, and making the job more attractive — all topics relevant to the current Legislative Council discussion.

Following the contentious 2007 legislative session, the Wheeler Center held a two-day conference entitled “Strengthening Montana’s Legislative Process: Ideas and Strategies for Reform.” Discussions of annual sessions and term limits arose again. Ideas abounded for ways to improve the Legislature, including providing more time between the rancorous election cycle and the start of a session and moving the session to even-numbered years instead of odd-numbered years. That same year, Humanities Montana held a conference on Public Discourse in Montana, for which the 2007 session provided a partial catalyst. The conference brought calls for more civility and to “ramp up your style and grace.” (Independent Record, Oct. 7, 2007)

Many of the past recommendations have been implemented over time and are in place today. Staffing topics were revisited again in 1989, 1991, 1993 and 1994. The consolidation of the legislative branch agencies — the Legislative Services, Fiscal and Audit divisions — was passed in 1995. Orientation sessions have occurred in their current form since at least 2001 and are conducted by staff from all three divisions. The directors of the three divisions of the legislative branch meet every other week to keep current and administer a uniform pay plan and administrative manual. All divisions work on orientation, training and outreach to legislators, so that lawmakers may better understand staff services and receive coordinated information from staff.

Continuing the Tradition

The 2013-14 Legislative Council is continuing in the fine tradition of the dedicated study of the legislative institution. The areas of concern are recurrent, yet timely:

- how often the Legislature should meet;
- how long legislative sessions should last and what deadlines are needed to maintain pressure to finish business;
- how much funding and staffing is needed to make the Legislature an equal partner in state government;
- how to improve training and orientation to provide new legislators with the information necessary to do their work and to allow all legislators to improve their understanding of the nuances of the institution; and
- foremost, how to enhance public outreach to strengthen the institution.

The desire to improve the Legislature and to keep it responsive, efficient and effective will benefit from all of the past work and study.

The Legislature is a dynamic institution that has evolved over time. As a part of a citizen Legislature, the Legislative Council holds the opinions and ideas of all citizens dear. All citizens in Montana are stakeholders, and the Legislative Council

invites all to share perspectives, experience, information and ideas as it considers ways to improve the institution. Stakeholders will be offered opportunity at each council meeting to come forward and be a part of the study.

For more information on opportunities to participate in Legislative Council meetings or for related reports and a bibliography of sources used for this article, please visit the Legislative Council website, www.leg.mt.gov/legcouncil.

The next Legislative Council meeting is set for Jan. 8 at the Capitol in Helena.